

State of South Dakota

EIGHTIETH LEGISLATIVE ASSEMBLY, 2005

400L0336

SENATE ENGROSSED NO. **SB 26** - 01/27/2005

Introduced by: The Committee on Judiciary at the request of the Office of the Attorney General

1 FOR AN ACT ENTITLED, An Act to provide monetary penalties for failure of tobacco
2 distributors and wholesalers to comply with certain cigarette regulations.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That § 10-50-80 be amended to read as follows:

5 10-50-80. No later than twenty days after the end of each calendar quarter, and more
6 frequently if so directed by the secretary, each distributor and wholesaler shall submit
7 information concerning each nonparticipating manufacturer as the secretary requires to facilitate
8 compliance with §§ 10-50-72 to 10-50-92, inclusive, including, a list by brand family of the
9 total number of cigarettes or, in the case of roll-your-own, the equivalent stick count, for which
10 the distributor or wholesaler affixed cigarette tax stamps or imprints to a cigarette package, or
11 otherwise paid the cigarette tax due during the previous calendar quarter. The distributor or
12 wholesaler shall maintain and make available to the secretary all invoices and documentation
13 of sales of all nonparticipating manufacturer cigarettes and any other information relied upon
14 in reporting to the secretary for a period of six years. The secretary may, in addition to any other
15 provision of law, impose and collect a monetary penalty in an amount not to exceed five



1 hundred dollars per day, for the failure of a distributor or wholesaler to timely or accurately
2 comply with this section. Any monetary penalty collected pursuant to this section shall be
3 deposited in the state general fund.

4 Section 2. That § 10-50-82 be amended to read as follows:

5 10-50-82. No distributor or wholesaler or other person may:

6 (1) Affix a South Dakota cigarette tax stamp or imprint to a package or other container
7 of cigarettes, or pay South Dakota cigarette tax on cigarettes of a tobacco product
8 manufacturer or brand family not included in the directory; or

9 (2) Sell or distribute, or acquire, hold, own, possess, transport, import, or cause to be
10 imported, cigarettes of a tobacco product manufacturer or brand family not included
11 in the directory that the distributor, wholesaler, or other person knows or should
12 know are intended for distribution or sale in this state.

13 The secretary may, in addition to any other provision of law, impose and collect a monetary
14 penalty in an amount not to exceed the greater of five hundred percent of the retail value of the
15 cigarettes or five thousand dollars for each violation of this section by a distributor or
16 wholesaler. Any monetary penalty collected pursuant to this section shall be deposited in the
17 state general fund.